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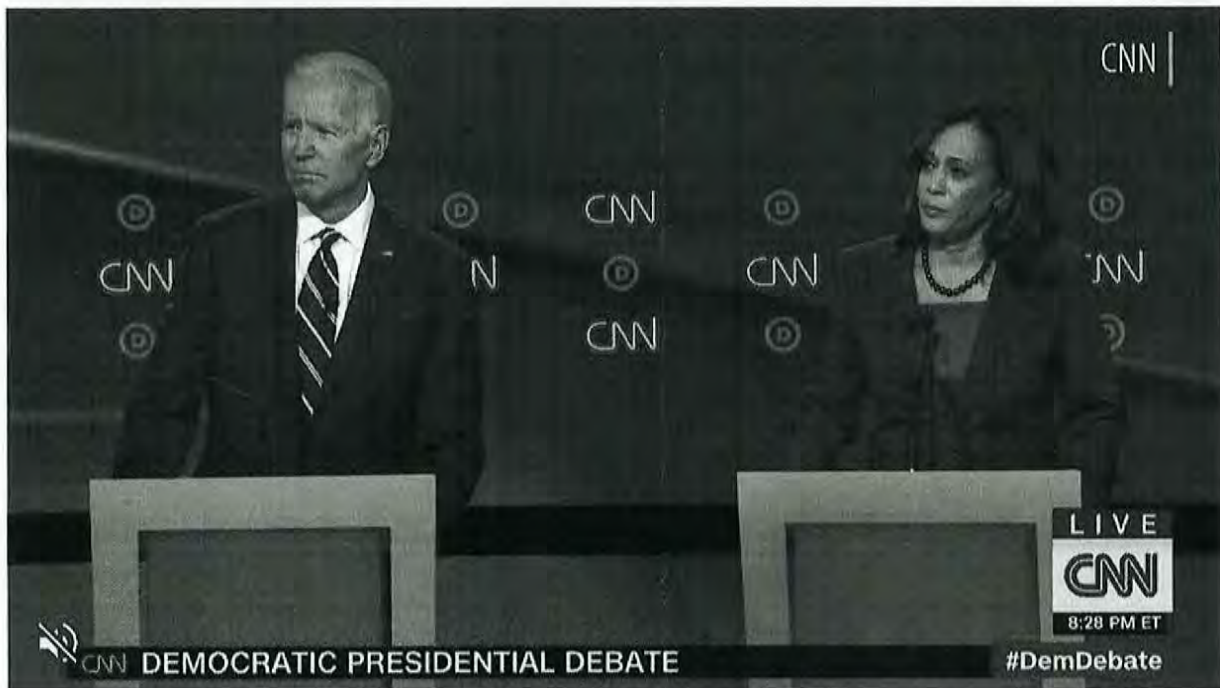
CAPITOL ALERT

Capitol Alert

Fact check: Did Kamala Harris block evidence that would have freed inmates?

BY EMILY CADEI AND BRYAN ANDERSON

UPDATED AUGUST 15, 2020 10:15 AM



Kamala Harris and Joe Biden debated over healthcare at the second round of Democratic Debates on July 31, 2019. BY CNN

Update: Joe Biden's choice on Aug. 11 of Sen. Kamala Harris brings to the Democratic ticket a woman who has won three times statewide in California — but has also been a polarizing figure. Read more here: [Kamala Harris in California: Big winner but a polarizing figure.](#)

During Wednesday night's Democratic presidential debate, former Vice President Joe Biden and Hawaii Congresswoman Tulsi Gabbard went after California Sen. Kamala Harris over her record as the state's attorney general and San Francisco's district attorney.

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Biden alluded to a crime lab scandal that involved her district attorney's office and resulted in more than 1,000 drug cases being dismissed. Gabbard claimed Harris "blocked evidence that would have freed an innocent man from death row until the courts forced her to do so."

Biden's claim that 1,000 drug cases had to be dismissed when Harris was D.A. is accurate, although Harris has denied knowing about the problems with the crime lab that triggered those dismissals until the issue became public. Gabbard is correct that Harris did not pursue all evidence in the case she referenced, but the innocence of the inmate in question has yet to be determined.

Longtime San Francisco Public Defender Jeff Adachi criticized Harris's handling of the crime lab situation back in 2010 and during a January interview with The Sacramento Bee.

The San Francisco drug lab was shut down after a lead technician, who testified on behalf of prosecutors on drug cases, was found to have systematically mishandled the drug samples seized from suspects, even consuming some herself.

While the San Francisco Police Department was responsible for running the lab, not Harris's district attorney office, a court ruled in 2010 that the district attorney's office violated defendants' constitutional rights by not disclosing what it knew about the tainted drug evidence.

Judge Anne-Christine Masullo wrote in her decision that prosecutors "at the highest levels of the district attorney's office knew that Madden was not a dependable witness at trial and that there were serious concerns regarding the crime lab."

And the Wall Street Journal reported in June that Harris ignored staff recommendations back in 2005 urging her office to establish a defendants rights policy, known as the Brady doctrine, that would have mandated her staff to disclose such information to defendants.

Harris has denied being aware of the drug lab issues at the time and also noted that her office implemented a Brady policy after the drug lab scandal came to her attention. Her office dismissed an estimated 1,000 cases as a result.



California Nation
Joe Biden Picks Kamala Harris for VP

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KEVIN COOPER CASE

In February, California Gov. Gavin Newsom ordered new DNA testing in the 1983 murder case of Kevin Cooper. Cooper came within hours of execution in 2004 after being charged with the murders of an adult couple and two children. Harris opposed the testing when she was the state's attorney general.

She has since said she supports DNA testing and encouraged Newsom to approve Cooper's request. She did not offer specifics on why she did not approve the testing during her tenure.

In response to a request for comment, Harris's campaign pointed to a past statement where the senator called a New York Times columnist last year, telling him, "I feel awful about this."

The testing is not yet complete. Whether Gabbard's claim that the testing "would" have exonerated him remains an open question.

Harris defended her criminal justice record Wednesday night. "As elected attorney general of California I did the work of significantly reforming the criminal justice system of a state of 40 million people, which became a national model of the work that needs to be done, and I am proud of that work."

Editor's note: This story has been updated to add more detail on the Kevin Cooper and crime lab cases.

This story was originally published July 31, 2019, 7:24 PM.

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BRYAN ANDERSON

THE SACRAMENTO BEE



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Bryan Anderson is a political reporter for The Bee. He covers the California Legislature and reports on wildfires and transportation. He also hosts The Bee's "California Nation" podcast.

7/27/24, 1:41 AM

Judge rips Harris' office for hiding problems



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Judge rips Harris' office for hiding problems

S.F. CRIME LAB SCANDAL

By **Jaxon Van Derbeken**, *Chronicle Staff Writer*

May 21, 2010



District Attorney Kamala Harris at a press conference at the Hall of Justice concerning peace officers and the "Brady Policy" in San Francisco, Calif., on Tuesday, May 4, 2010. With chief George

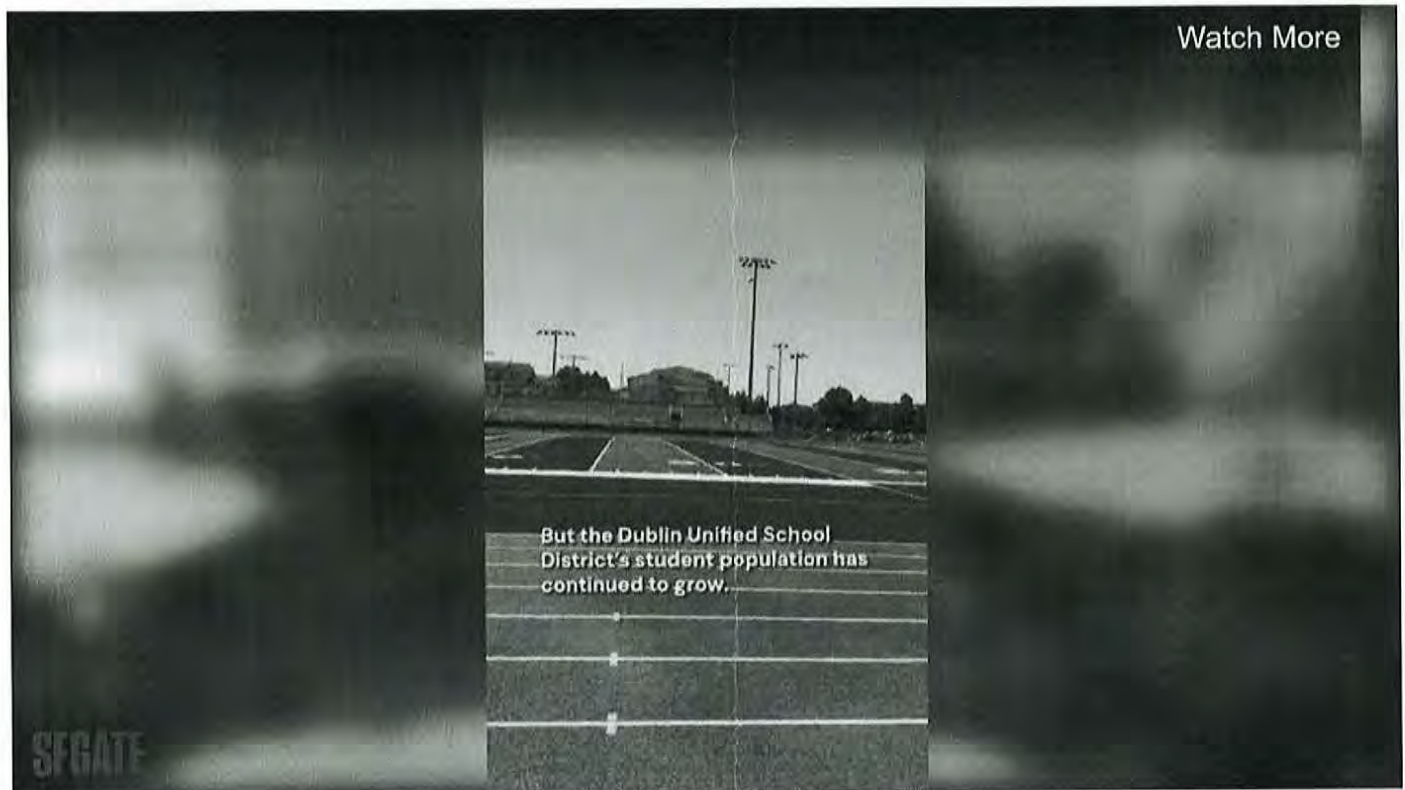
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Judge rips Harris' office for hiding problems

Gascon at right, they explain the "Brady Policy" as protecting a peace officer's personnel records from public disclosure.

Liz Hafalia/The Chronicle

San Francisco District Attorney Kamala Harris' office violated defendants' rights by hiding damaging information about a police drug lab technician and was indifferent to demands that it account for its failings, a judge declared Thursday.



Superior Court Judge Anne-Christine Massullo stopped short of granting a request by more than 40 drug defendants that their cases be dismissed because of prosecutorial misconduct, saying that decision must be left up to the judges hearing their cases.

But in a scathing ruling, the judge concluded that prosecutors had failed to fulfill their constitutional duty to tell defense attorneys about problems surrounding Deborah Madden, the now-retired technician at the heart of the cocaine-skimming scandal that led police to shut down the drug analysis section of their crime lab.

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Prosecutors, unable to vouch for the reliability of Madden's work, have dismissed more than 600 drug cases since the scandal became public in February.

Madden testified at trials before leaving the lab in December. Under a 1963 U.S. Supreme Court ruling, district attorneys are obligated to hand over to the defense information about prosecution witnesses that could be used to challenge their credibility.

Domestic violence case

Madden was convicted of misdemeanor domestic violence in 2008, which should have been reported to defense lawyers. Last fall, Harris' lead drug prosecutor complained about Madden's unreliability in a memo to her bosses, information that was also wrongly kept from the defense, the judge found.

Police have admitted they erred in not telling prosecutors about Madden's conviction, and Harris' office has acknowledged that it relied on police to volunteer such information without checking her criminal record.

Massullo wrote that top drug prosecutor Sharon Woo's Nov. 19 memo about Madden showed that prosecutors "at the highest levels of the district attorney's office knew that Madden was not a dependable witness at trial and that there were serious concerns regarding the crime lab."

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Judge rips Harris' office for hiding problems

Woo wrote that crime lab officials believed Madden was unhappy in her job and was intentionally sabotaging the drug analysis unit. None of that, however, was conveyed to defense attorneys in cases in which Madden had analyzed drug evidence.

Violation of rights

The failure by Harris' office "to produce information actually in its possession regarding Madden and the crime lab is a violation of the defendants' constitutional rights," Massullo wrote.

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She said Harris' office had the "duty to implement some type of procedure to secure and produce information relevant to Madden's criminal history." But Massullo said her repeated requests that prosecutors explain why they did not have such procedures were met with "a level of indifference."

Massullo refused the defendants' blanket motion to dismiss all their cases, saying each must be considered individually. Harris was not available for comment, but her

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Judge Rips Harris' office for hiding problems

spokeswoman, Erica Terry Derryck, seized on the judge's refusal to dismiss the charges as a victory and downplayed her criticisms.

"The bottom line," Derryck said in a statement, was whether the judge would drop all the cases at once. "She didn't. Not one case."

Working on reforms

She noted that "the law requires prosecutors to turn over information that they may not even have. In order to do that, we need the right policies and a real partnership with the police to make sure we have all the information we need. That's why we're instituting reforms to make sure this doesn't happen again."

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Massullo was insistent that prosecutors get busy on disclosing witnesses' pasts. "Your office needs to comply," she told Woo in court. "You are responsible for figuring out how to do it."

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Judge rips Harris' office for hiding problems

Public Defender Jeff Adachi, whose office represents many of the defendants involved in Thursday's ruling, said Massullo's findings would provide ample ammunition when individual cases come before judges.

The ruling "really hits the ball out of the park," Adachi said, "by setting forth multiple failures by the district attorney to disclose evidence."

May 21, 2010



Jaxon Van Derbeken
POLICE/COURTS REPORTER



Jaxon Van Derbeken has been the San Francisco police and courts reporter for the San Francisco Chronicle since 1997 and leads the paper's investigative and enterprise reporting efforts. He previously reported on law enforcement for newspapers in Los Angeles and Denver. He has reported on the O.J. Simpson case, the Rodney King beating and the Los Angeles riots as well as numerous local stories, ranging from Your Black Muslim Bakery to Fajitagate to the dog mauling death of Diane Whipple and the ensuing trial of the dog's owners. He helped former Washington Post reporter Lou Cannon on "Official Negligence," a book about the LAPD, the King case and the riots.

In recent years, Jaxon has explored the circumstances behind the explosion and fire of Pacific Gas and Electric Co.'s San Bruno gas pipeline in September 2010, which killed eight people and destroyed 38 homes. He has also reported extensively on the August 2012 fire that erupted at Chevron's refinery in Richmond. He was awarded Journalist of the Year for his San Bruno pipeline reporting and an investigative reporting prize by the Northern California chapter of the Society of Professional Journalists.

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Public Defender Jeff Adachi Says D.A. Kamala Harris Blowing Off Crime Lab Scandal — and Him

BY SF WEEKLY STAFF

Apr 14, 2010

San Francisco Public Defender Jeff Adachi sharply criticized District Attorney Kamala Harris' handling of a growing scandal at the San Francisco Police Department crime lab today, saying the city's top prosecutor had ignored repeated requests to meet with him and failed to disclose the full extent of problems at the lab.

“Anytime I’ve asked the District Attorney for a meeting, I’ve been told the District Attorney is out of town or not available,” Adachi said, noting that Harris had initially scheduled — but then canceled — a meeting when the Public Defender's office first learned of alleged tampering with drug samples by lab technician Deborah Madden. “We need a District Attorney who will give this the attention it deserves.”

The remarks came at a press conference Adachi held in the wake of a judge's order yesterday that prosecutors turn over thousands of pages of documents about Madden and problems at the crime lab's narcotics unit. The records include the transcript of an internal police interview with

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Madden wherein she described startlingly sloppy protocols for measuring drug weights — an important factor in criminal sentencing — and stated that she and other lab technicians routinely “just laughed” at testing errors.

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1,000 San Francisco drug cases to be dismissed in lab scandal — The Mercury News

NEWS

1,000 San Francisco drug cases to be dismissed in lab scandal

By ASSOCIATED PRESS | ap@dfmdev.com

PUBLISHED: April 1, 2010 at 10:42 a.m.

SAN FRANCISCO — San Francisco prosecutors are dropping an estimated 1,000 drug cases due to the scandal-plagued police crime lab.

A District Attorney's Office spokesman said today that the dismissals come on top of about 550 cases that were already dismissed or not charged because the lab was unable to test those cases.

Assistant District Attorney Brian Buckelew says of those cases, prosecutors intend to file charges in 400 cases when test results are returned from outside laboratories.

Prosecutors are also trying to salvage between 250 to 350 cases involving drug sales dating as far back as 2007. Prosecutors say the charges can proven based on what they term "offer to sell" and do not need a drug analysis.

The police crime lab was shut March 9 amid allegations in December that longtime lab technician Deborah Madden stole cocaine evidence. Madden, who retired in March, hasn't been charged.

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Capitol Alert

Kamala Harris says she focused ‘almost every day’ on justice reform. That’s not the whole story.

BY EMILY CADEI

UPDATED JANUARY 20, 2019 7:38 AM



7/27/24, 1:39 AM

Kamala Harris a champion for justice reform? Record is mixed. | Sacramento Bee

Kamala Harris was elected to represent California in the U.S. Senate in 2016. She got her start in California politics in the 1990s working as a local district attorney. Harris says her family roots are behind her political efforts today. BY ALEXA ARD

WASHINGTON

Kicking off the publicity tour for her new memoir, *The Truths We Hold*, in Washington, D.C. this month, California Sen. Kamala Harris took pains to explain her choice to become a prosecutor.

It's something she's been doing since she took her first job at the Alameda County District Attorney's Office, when family members and peers questioned why a woman of color would want to be part of a system that locked up so many men from their community.

It's also a choice that's dogged her as she prepares to launch a run for president in a Democratic party that has embraced the call for far-reaching changes to American justice, spearheaded by the Black Lives Matter movement and others. Critics have trolled her on Twitter with the hashtag #Kamalaisacop.

"As a prosecutor ... you have the power to be the voice of the most vulnerable among us," Harris said during the Jan. 9 event at George Washington University. That includes, she emphasizes in her book, not just "victims of crimes committed" but also "victims of a broken criminal justice system."

As she has highlighted in her book and the flurry of media appearances she has made to promote it, Harris notched some significant victories to try to make the state's criminal justice system fairer. It is evidence, she says, of her record as a "progressive prosecutor."

But Harris' account also leaves out a number of more controversial episodes from her career in California, where advocates for criminal justice reform say her office was part of the problem, not the solution. Those stances suggest a more

mixed record than the 54-year-old Oakland native, who is expected to announce her presidential ambitions in the coming days, has acknowledged. A crowded field of Democratic primary contenders, however, is unlikely to let her forget them.

"I don't think the fact that someone was a prosecutor should count against them in any way," says Marc Levin, Vice President of Criminal Justice Policy at the Texas Public Policy Foundation and a leading conservative voice for criminal justice reform. "There's a lot of terrific prosecutors who are doing amazing work on diversion."

But Levin said "there are a few areas where I think she did not really advocate for criminal justice reform in earlier years in those roles."

A 'LAW-AND-ORDER' PROSECUTOR

In her book, Harris writes that since her inauguration as San Francisco district attorney in 2004 she has "spent almost every day since working, in some way or another, on reforming the criminal justice system."

Longtime San Francisco Public Defender Jeff Adachi remembers it differently.

As a candidate for district attorney, Harris "had run on this platform that she was going to restore relations with the police and run a professional law office and so that was really the focus of her tenure here," Adachi told The Bee. "She was known as a fair prosecutor," Adachi added, but "she was definitely a law-and-order type of prosecutor."

Adachi praised Harris' work in starting a reentry program to keep young offenders, accused mostly of drug-related crimes, from re-offending. Harris touts the program, Back on Track, as one of her chief criminal justice reform accomplishments.

“I have to say I was skeptical in the beginning, but I was impressed by the resources she brought to bear for people who were admitted into the program,” Adachi said. He noted, however, that it served a small population of criminal defendants — young people with no prior criminal record — relative to the tens of thousands of people that went through the system each year.

Adachi was less complimentary of her office’s handling of a crime lab scandal that resulted in the dismissal of over 1,000 drug cases. The lab was shut down after a lead technician, who testified on behalf of prosecutors on drug cases, was found to have systematically mishandled the drug samples seized from suspects, even consuming some herself.

The San Francisco Police Department, not the district attorney’s office, ran the crime lab, and the problems that emerged there began long before Harris was elected D.A. But a San Francisco Superior Court judge ruled in 2010 that the district attorney’s office under Harris violated defendants’ constitutional rights by failing to disclose what they knew about the tainted drug evidence. Prosecutors “at the highest levels of the district attorney’s office knew that Madden was not a dependable witness at trial and that there were serious concerns regarding the crime lab,” Judge Anne-Christine Masullo wrote in her decision.

POLICING REFORM

That same year, Harris won a hard-fought race for attorney general and was re-elected four years later. As the Black Lives Matter movement began to seize national attention after the 2014 killing of Michael Brown, she championed several measures to bring more accountability to California law enforcement.

In her book, Harris highlights her 2015 effort to launch a training program to help law enforcement recognize their implicit bias towards people of color and others. It was one of the results of a 90-day review she ordered to address what she said at the time was “the crisis of confidence between law enforcement and the communities they serve.”

“Kamala Harris was the first attorney general to come out and say, ‘we’re doing this,’” says Dr. Phillip Atiba Goff, co-founder and president of the Center for Policing Equity. “They had some of the best minds in California law enforcement who helped deliver the training.”

Goff also noted that Harris championed California laws to modernize the way law enforcement compiled and shared criminal justice data. “California is about to be the national leader on statewide requirements on data collection” for policing Goff said, “in part because of what she did back then.”

THREE STRIKES

Harris, however, was less proactive on an issue that has been a central plank of criminal justice reform groups — relaxing stringent sentencing guidelines that have resulted in hundreds of thousands of Americans being locked up for extended periods for non-violent offenses. In 1994, California embraced one of the most punitive sentencing laws in the country when it passed a ballot initiative imposing the Three Strikes law. But the tide was beginning to turn against Three Strikes as Harris was coming up in public office.

Harris acknowledged at the time that the law was flawed.

As Harris’ Senate spokeswoman Lily Adams noted, “when she was D.A., in general she did not seek a 25 year-to-life sentence,” for a so-called third strike, “unless it was a crime of a serious or violent nature.” She also drew headlines — and intense criticism from law enforcement — for refusing to seek the death penalty for the killer of San Francisco police officer Isaac Espinoza, after opposing capital punishment during her campaign.

But as the San Francisco Chronicle noted in 2012, Harris largely “stayed out of politically risky fights over criminal sentencing.”

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In fact, Harris was to the right of her Republican opponent on the issue in the 2010 attorney general's race. Los Angeles D.A. Steve Cooley, whom Harris narrowly defeated, had championed a reform effort in 2006 and ran on a platform of fixing the law.

She did not take a position on the successful 2012 ballot initiative to amend the law. Adams said that Harris did not weigh in on any state propositions when she was attorney general because she wrote the ballot language for the initiatives.

Her attorney general's office also defended the law against a 2014 challenge in the state Supreme Court. Levin said that while it's typical for the attorney general's office to defend existing state laws, the attorney general is an independent elected official. "There's nothing illegal about an attorney general saying, 'you know what, I disagree.'"

This story was originally published January 18, 2019, 11:15 AM.

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CAPITOL ALERT

Capitol Alert

Gavin Newsom orders new DNA testing in 1983 murder case after petition by death row inmate

BY SOPHIA BOLLAG

UPDATED FEBRUARY 22, 2019 10:42 AM

In primary victory speech, Newsom frames the California governor race as a fight with Trump

00:29

00:58

Gavin Newsom, after winning the primary for California governor, hit on major platform issues. He calls out Attorney General Jeff Sessions and declares California is "a state where we don't criminalize diversity, we celebrate diversity." BY AP

X

Gov. Gavin Newsom ordered additional DNA testing in the case of death row inmate Kevin Cooper on Friday, the new California governor's first action related to a

clemency request since he was inaugurated in January.

Newsom's executive order calls for new testing of hairs collected from victims' hands in the 1983 murder of an adult couple and two children. Cooper, who was convicted of the slayings, says he was framed.

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Newsom also authorized new testing of blood found at the crime scene, fingernail scrapings collected from the victims and a green button using modern technology to test for Cooper's or another person's DNA.

"I take no position regarding Mr. Cooper's guilt or innocence at this time," Newsom wrote in the executive order. "Especially in cases where the government seeks to impose the ultimate punishment of death, I need to be satisfied that all relevant evidence is carefully and fairly examined."

Cooper, now in his 60s, is awaiting execution for the slayings of Doug and Peggy Ryen, their 10-year-old daughter Jessica and 11-year-old neighbor Christopher Hughes in Chino Hills.



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In one of his last acts as California governor, former Gov. Jerry Brown in December ordered new testing of other evidence including a t-shirt, a towel and the hatchet used in the murders.

Prosecutors had asked Brown to deny Cooper's request for new testing.

Former Gov. Arnold Schwarzenegger twice rejected Cooper's clemency petitions.

Cooper's case has attracted renewed media attention in recent years. Presidential candidate Sen. Kamala Harris, D-California, has called for new DNA testing in the case.

Cooper is among more than 700 people on death row in California. The state hasn't executed a prisoner in more than a decade.

California voters approved a ballot initiative in 2016 intended to speed up the state's execution process. At the time, Newsom endorsed a competing ballot measure that

would have ended the death penalty in California. That initiative failed by a narrow margin.

The night before he was inaugurated, Newsom said Brown warned him reviewing clemency petitions like Cooper's would be among his most difficult tasks as governor.

"The weight of that is pretty heavy," Newsom told a gaggle of reporters at his inaugural benefit concert last month. "The governor looks at dozens of those every single week. There's a binder. Quite literally, every time I see him, he shows me the binder and he says, 'This is one of the most important jobs that you will have.'"

This story was originally published February 22, 2019, 9:16 AM.

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Sophia Bollag covers California politics and government. Before joining The Bee, she reported in Sacramento for the Associated Press and the Los Angeles Times. She grew up in California and is a graduate of Northwestern University.